



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: MIZUTANI=3

In re Application of:)	Confirmation No.: 4955
)	
Akihiko MIZUTANI et al)	Art Unit: 1615
)	
I.A. Filing Date: 05/09/2003)	Examiner: H. S. Ahmed
371(c) Date: October 8, 2004)	
)	October 23, 2006
U.S. Appln. No.: 10/510,644)	
)	
For: LIGHT-STABILIZED SOFT)	
CAPSULE FORMULATIONS)	

REPLY TO RESTRICTION REQUIREMENT

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants are in receipt of the Office Action mailed September 25, 2006 entirely in the nature of a restriction requirement purportedly based on lack of unity of invention under PCT rules 13.1 and 13.2. Applicants reply below.

First, however, as the present application is the National Phase of PCT/JP03/05823, the International Bureau of WIPO will have forwarded a copy of the Japanese priority application to the PTO. Applicants have claimed priority from the Japanese priority application. **Accordingly,**

acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 would be appreciated.

Restriction has been required among what the PTO deems to be three (3) patentably distinct inventions. As applicants must make an election, even though the requirement is traversed, applicants hereby respectfully and provisionally elect Group I, directed to a light-stabilized soft capsule, and presently comprising claims 1-9, 14 and 15, with traverse and without prejudice.

The Office Action indicates that unity of invention is destroyed by Iida et al WO 01/015702, but this document appears to teach and disclose no more than the acknowledged prior art in applicants' specification on page 1. However, there is more to applicants' invention than simply a light stable soft capsule.

Moreover, applicants believe and respectfully submit that the non-elected inventions are sufficiently close and similar to the elected invention that it would not constitute a serious burden to search and examine claims 10-13 along with the elected claims. Applicants respectfully note the second paragraph of MPEP 803 which **requires** a search and examination of an entire application, even when the restriction requirement is correct, if it would not constitute a serious burden to do so. Applicants believe and submit that a

complete search of the elected Group I claims would by necessity include a search of the Group II and III claims. Once such a complete search has been conducted, it would not appear to be a serious burden to examine claims 10-13 along with claims 1-9.

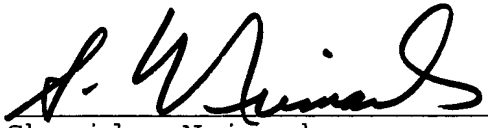
Applicants also note that the examiner has discretion in examining plural inventions in a single application. Thus, even if the examiner disagrees with what is stated above, applicants request that the examiner exercise such discretion and also examine claims 10-13 as being directed to closely similar subject matter to the elected subject matter.

Withdrawal of the requirement and examination of all the claims on the merits are respectfully requested.

Applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

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